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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/510,937	02/22/2000	Carey V. Campbell	MP/55G	2961

7590 04/22/2004

WAYNE D. HOUSE
W.L. GORE & ASSOCIATES, INC.
551 PAPER MILL ROAD
P.O. BOX 9206
NEWARK, DE 19714-9206

EXAMINER

NOLAN, SANDRA M

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/510,937	CAMPBELL ET AL.	
	Examiner	Art Unit	
	Sandra M. Nolan	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims

1. Claims 1-20 are pending. Claims 21-28 have been cancelled.

Withdrawal of Allowance

2. The allowance of claims 1-9 is hereby withdrawn in order to apply the new grounds of rejection set out below.

Rejections Withdrawn

3. The 35 USC 112 rejection of claims 10-20, as expressed in sections 12 and 13 of the 04 August 2003 office action, are hereby withdrawn in response to applicants' arguments in their 04 February 2004 response.

Abstract

4. The abstract submitted with the 04 February 2004 response is acceptable.

New Rejections

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "fluorinated ethylene propylene" is indefinite. Do applicants employ these monomers as coatings?

Please clarify.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasprzyk et al (WO 90/14046) in view of Gore (US 4,187,390) and House et al (US-4,877,661).

Kasprzyk teaches catheters (title) containing TEFLON tubing in interlayers (page 13, lines 19-22). The catheters have inelastic balloons (page 4, line10).

TEFLON is the well-known trademark for polytetrafluoroethylene (PTFE).

Kasprzyk fails to teach the use of adhesives, PTFE material that contains nodes connected by fibrils, PTFE/PTFE structure or continuous coating.

Gore teaches the production of tubes and laminates using PTFE (col. 17, lines 55-57) material that contains nodes connected by fibrils (abstract). The PTFE material

can be bonded to itself or to other materials by applying bonding agents thereto (col. 5, lines 48-54). Articles made of Gore's material have high strength properties (abstract).

The term "bonding agents" is deemed synonymous with adhesives.

House teaches that PTFE materials having nodes and fibrils therein are useful in medical applications because they recovery rapidly (abstract). The materials' recovery properties permit them to undergo repeated applications of tensile loads (col. 2, lines 45-49).

The Kasprzyk, Gore and House references are analogous because they all deal with PTFE materials.

It would have been obvious to one having ordinary skill in the art at the time that the invention was made to employ the PTFE materials of Gore in the catheters of Kasprzyk, as suggested by House, in order to make the catheters strong (per Gore) and capable of withstanding repeated applications of tensile loads (per House).

The motivation to employ the PTFE materials of Gore in the catheters of Kasprzyk, as suggested by House, is found in Gore's abstract and at col. 2, lines 45-49 of House.

It is deemed desirable to make catheters that have good strength/tensile properties so that they will be durable when used.

The selection of suitable adhesives, such as thermoplastics and/or fluorinated copolymer adhesives, is deemed a matter of optimization of properties. Note that Gore teaches, at col. 17, lines 55-60, that copolymers of fluorinated propylene are among the types of polymers that he may use to make his materials.

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The use of a continuous coating of adhesive when making the catheters suggested by the combination of Kasprzyk, Gore and House is deemed an obvious way of producing uniform coatings on the Gore materials.

Response to Arguments

10. Applicants' arguments with respect to claims 10-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication should be directed to Sandra M. Nolan, whose telephone number is 571/272-1495. She can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time.

If attempts to reach the examiner are unsuccessful, her supervisor, Harold Pyon, can be reached at 571/272-1498.

The fax number for patent application documents is 703/872-9306.



S. M. Nolan
Primary Examiner
Technology Center 1700

SMN/smn
09510937(20040417)